

Application ser. no. 10/769,153

REMARKS

1. Applicant thanks the Examiner for pointing out the allowable subject matter of claims 7, 11 and 24. Applicant notes that the Office Action states that claims "7, 11, 24 and 24" would be allowable. Applicant assumes that the Examiner intended to state that claims 7, 11, 24 and 25 would be allowable.

2. **35 U.S.C. § 102**

Claims 1, 3-6, 8-10, and 15-23 are rejected as being anticipated by U.S. patent no. 6,179,824 ("Eggers"). Applicant notes that the Final rejection gave the number of the cited patent as 6,178,824 and assumes that the Examiner intended to write 6,179,824.

In order to describe the invention more clearly, claim 1 is amended to describe incorporate the subject matter of claim 7, found to be allowable. Claim 1 is additionally amended to describe allowing passage of a flowable substance to said surface (of the tissue to be treated). The amendment is made in order to clarify the description of the claimed subject matter and does not alter the scope of the claim.

In view of the foregoing amendment, claim 1 is deemed allowable. The dependent claims, in view of their dependence from an allowable parent claim are deemed allowable without any separate consideration of their merits.

3 The above amendments are made in the interest of expediting prosecution of the Application. They do not indicate Applicant's agreement with the Examiner's position. Nor do they signify intent to sacrifice claim scope. Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in one or more continuing applications.

4. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.

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CONCLUSION

In view of the foregoing, the Application is deemed in allowable condition. Accordingly, Applicant respectfully requests reconsideration and prompt allowance of the claims. Should the Examiner have any questions regarding the Application, he is invited to contact Applicant's attorney at 650-474-8400.

Respectfully submitted,


Michael A. Glenn
Reg. No. 30,176

Customer No. 22862